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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,924	04/06/2001	Leon Atkinson	LED001	3619

7590 07/08/2002

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EXAMINER
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NGO, LIEN M

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 07/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/826,924

Applicant(s)

ATKINSON ET AL.

Examiner

LIEN TM NGO

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-- Th MAILING DATE of this communication app ars on th cover sh t with th correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) 30-43 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3. 6) ☐ Other: \_\_\_\_\_

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### **DETAILED ACTION**

1. Applicant's election without traverse of group I, claims 1-29, in Paper No. 7 is acknowledged.

#### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: the surface portion "26", the annular sidewall "54" and the band "100". A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear whether a subcombination or a combination is intended in the claims. Claims 1 and 16 set forth a compact package only in the preamble, but the body of the claims positively

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recite a garment. Applicant is required to state whether a subcombination or combination is intended, and amend the claims to clarify the matter.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 1 are rejected under 35 U.S.C. 102(b) as being anticipated by Thiele (3,380,221).

Thiele discloses, in figs. 2 and 3, a package comprising a body 3, a garment , a buffer material and a cover member 7.

7. Claims 1, 9, 11, 12, 14, 15, 16, 25, 26, 28 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Brecher (3,826,359). Brecher discloses, in fig. 4, a package comprising a body 10&10', a garment P(a pair of pantyhose), a buffer material (the lower cover 14), a cover member 16, and a cap 12.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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9. Claims 1, 5-7, 9, 10- 17, and 21-29 rejected under 35 U.S.C. 103(a) as being unpatentable over Kirland (6,006, 945) in view of O'Leary (4,802,577) and further in view of Diaz (5,193,163) Kirland discloses, in fig. 1 and col. 5, lines 45-50, a package comprising a body 12, a garment 22, a cover member 14 having a pull- tab element 26. O'Leary discloses, in fig. 1, a package having a buffer 20 constituted by paper, and Diaz teaches a cap for a pull-tab container.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Kirland package with a paper buffer, as taught by O'Leary, and with a cap, as taught by Diaz, in order to provide more protection covers for the material stored inside the package.

10. Claims 1-4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curtis (6,085,930). Curtis discloses, in fig. 2, a package comprising a container body 4, a buffer 12, a cover 2 having a plurality of openings 16, and the cover being convex in shape. Curtis does not disclose a garment compressed within the container body. Official notice is taken that it is well known in the art to put a garment in a package. It is submitted that it would have been obvious to one skilled in the art to put a garment in the Curtis package in order the garment to be packed for a purposed use.

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*Allowable Subject Matter*

11. Claims 18-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Finney, Farrell et al. and Ingemann teach packages with pull-tab covers.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien Ngo whose telephone number is (703) 305-0294. The examiner can normally be reached Monday through Friday from 8:00 AM to 5:00 PM.


If attempts to reach the examiner by telephone are unsuccessful. The examiner's supervisor, Lee Young, can be reached at (703)308-2572. The Group FAX number is (703) 305-3579.

Any inquiry of a general nature or relating to the status of the application should be directed to the Group receptionist at (703) 308-1148.



Lien Ngo

June 26, 2002



LEE YOUNG  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700